



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-844]

Steel Concrete Reinforcing Bar from Mexico: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the Rebar Trade Action Coalition (RTAC), the Department of Commerce (Commerce) is initiating an anti-circumvention inquiry to determine whether otherwise straight rebar bent at one or both ends produced and/or exported to the United States by Deacero S.A.P.I de C.V. (Deacero) is circumventing the antidumping duty (AD) order on rebar from Mexico.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jonathan Hall-Eastman, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1468.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2019, RTAC, a domestic interested party in the above-mentioned proceeding recommended that Commerce issue a scope ruling or initiate an anti-circumvention inquiry with regard to certain hooked or bent rebar that is produced and/or exported to the United

States by Deacero.¹ RTAC alleges that the hooked or bent rebar at issue constitutes merchandise altered in such minor respects that it should be included within the scope of the order on rebar from Mexico pursuant to section 781(c) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.225(i) and, thus, falls within the scope of the *Order*.²

In its September 25, 2019 submission, Deacero opposed RTAC's request for a scope ruling or initiation of an anti-circumvention proceeding.³ On October 9, 2019, RTAC submitted a surrebuttal to Deacero's Rebuttal Comments.⁴

Scope of the Order

The merchandise subject to this *Order* is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010.

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size or grade) and without being subject

¹ See RTAC's Letter, "Steel Concrete Reinforcing Bar from Mexico: Request for Scope Ruling or, Alternatively, an Anti-Circumvention Ruling," dated September 3, 2019 (Circumvention Allegation). The rebar product described in the Circumvention Allegation is 31 feet and 1 inch in length, 1 foot and 1 inch of which is curved or hooked on one end.

² See *Steel Concrete Reinforcing Bar from Mexico: Antidumping Duty Order*, 79 FR 65925 (November 6, 2014) (*Order*).

³ See Deacero's Letter, "Steel Concrete Reinforcing Bar from Mexico – *Response to Petitioner's Scope Inquiry Request*," dated September 25, 2019 (Deacero's Rebuttal Comments).

⁴ See RTAC's Letter, "Steel Concrete Reinforcing Bar from Mexico: Comments on Deacero's September 25, 2019 Response to Petitioner's Scope Inquiry," dated October 9, 2019 (RTAC's Surrebuttal Comments)

to an elongation test. HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

Merchandise Subject to the Anti-Circumvention Inquiry

This minor alternation anti-circumvention inquiry covers otherwise straight rebar bent at one or both ends produced and/or exported to the United States by Deacero. In this circumvention proceeding, Commerce intends to consider whether any affirmative finding of circumvention through minor alterations to otherwise straight rebar should be applied to imports of similarly situated otherwise straight rebar bent at one or both ends rebar from Mexico, regardless of producer or exporter.

Initiation of Anti-Circumvention Inquiry

Section 781(c) of the Act provides that Commerce may find circumvention of an AD order when products which are of the class or kind of merchandise subject to an AD order have been “altered in form or appearance in minor respects . . . whether or not included in the same tariff classification.” Section 781(c)(2) of the Act provides an exception that “{p}aragraph 1 shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the AD order.”

While the statute is silent as to what factors to consider in determining whether alterations are properly considered “minor,” the legislative history of this provision indicates that there are certain factors which should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, Commerce has generally relied upon “such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of

marketing and the cost of any modification relative to the total value of the imported products.”⁵

Concerning the allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.225(i), Commerce examines such factors as: (1) overall physical characteristics; (2) expectations of ultimate users; (3) use of merchandise; (4) channels of marketing; and (5) cost of any modification relative to the value of the imported products.⁶

Analysis

After analyzing the information in the Circumvention Allegation, we determine that RTAC has satisfied the criteria listed above to warrant an initiation of a formal anti-circumvention inquiry, pursuant to section 781(c) of the Act and 19 CFR 351.225(i), to determine whether otherwise straight rebar bent at one or both ends produced and/or exported to the United States by Deacero constitutes merchandise altered in form or appearance in such minor respects that should be included within the scope of the *Order*. For a summary of the proprietary comments received from interested parties and further discussion of Commerce’s basis for initiating this minor alteration inquiry, *see* the Initiation Decision Memorandum dated concurrently with this notice and hereby adopted by this notice.⁷ The Initiation Decision Memorandum is a business proprietary document, of which a public version is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of

⁵ See S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987) (“In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article.”).

⁶ See, e.g., *Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Steel Plate from the People’s Republic of China*, 74 FR 33991, 33992 (July 14, 2009), unchanged in *Affirmative Final Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China*, 74 FR 40565 (August 12, 2009).

⁷ See Memorandum, “Initiation of Minor Alteration Circumvention Inquiry on Hooked or Bent Steel Concrete Reinforcing Bar,” dated concurrently with this notice.

the main Commerce building. The signed Initiation Decision Memorandum and the electronic version of the Initiation Decision Memorandum are identical in content.

Commerce will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if Commerce issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry. Following consultation with interested parties, Commerce will establish a schedule for questionnaires and comments on the issues related to the *Order*. Commerce intends to issue its final determination within 300 days of the date of publication of this initiation.

This notice is published in accordance with section 781(c) of the Act and 19 CFR 351.225(i) and (j).

Dated: October 18, 2019.

Carole Showers,

Executive Director, Office of Policy,

Policy & Negotiations,

Enforcement & Compliance.

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